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David Teller

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12/29/2005

Jagtiani & Guttag  
10363-A Democracy Lane  
Fairfax, VA 22030

EXAMINER

BUTLER, MICHAEL E

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/964,679

Applicant(s)

TELLER, DAVID

Examiner

Michael Butler

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) 29-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 17.18.24 *Y*
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Priority***

1. Applicant's claim of priority to application 60/311366 filed 8/13/00 and 60/169918 filed 12/10/99 is acknowledged. However, application 60/169918 was abandoned before the filing date of the instant application so the priority claim to that application is invalid.

***Drawings***

2. New drawings will be required contingent upon allowance because the drawings were objected to by the draftsman/declared informal by the applicant.

***Election/Restriction***

3. Applicant's election of invention I with traverse of the restriction requirement in Paper No. 5 is acknowledged and made final. As applicant has not provided any rational for the traversal, it is being treated as an election without traverse.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim(s) 23-24 is/are rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant is creating claimed elements by parenthetical reference. Applicant should explicitly claim the step elements he is wishing to claim.

*Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claims 1-3, 5, 7-8, 10, 13-14, 16-23, 25, and 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Frank et al. 5291004 which discloses all the claimed elements including:

(Re: cl 1) Method for controlling the dispensing of at least one serving  
entering user identification information (C4 L 42-65)  
storing dispensing information in storage medium (C5 L 22-49)  
linking dispensing information and destination information (c4 L 38-41 with c5L 22-48)  
activating readied dispensing apparatus premised upon dispensing information (C4 L 42-65)  
(Re: cl 2,24) putting dispenser in standby state (C5 L 66-C6 L 21)  
(Re: cl 3) dispensing information comprises quantity of serving to be dispensed (C4 L 66-C6 L 21)  
(Re: cl 5) dispensing information comprises the location to be delivered (c4 L 38-41 with c5L 22-48)  
(Re: cl 7) dispensing information comprises dispensing apparatus which will dispense the serving information (c4 L 38-41 with c5L 22-48)

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(Re: cl 8) dispensing apparatus dispenses at least one serving into a container (C4 L 42-65)

(Re: cl 10) identification information comprises a magnetic strip (C4 L 42-65)

(Re: cl 14) dispensing information comprises a magnetic strip (C4 L 42-65)

(Re: cl 16) dispensing information is part of container

(Re: cl 17) making entry into warehouse database of identification of at least one serving dispensed (c5L 22-48)

(Re: cl 18) making entry into warehouse database of dispensing information of at least one serving dispensed (c5L 22-48)

(Re: cl 19) making entry into warehouse database of destination information of at least one serving dispensed (c5L 22-48)

(Re: cl 20) comparing any two entries recorded in warehouse database (c5L 22-48)

(Re: cl 21) entering destination information about at least one serving destination information being linked to user (c4 L 38-41 with c5L 22-48)

(Re: cl 22) (21) destination information consists of an amount of payment

(Re: cl 23) repeating a and b

entering second dispensing information about at least one serving, second

dispensing serving information including information about a refill serving;

storing second dispensing information in a storage medium;

linking second dispensing information with destination information;

activating readied dispensing information with destination information;

activating readied dispensing information with destination information;

activating readied dispensing apparatus based on second dispensing information to put dispensing apparatus in activated state;

dispensing at least one serving from activated dispensing apparatus based on second dispensing information (c4 L 38-41 with c5L 22-48)

(Re: cl 25) pressing an activation device to dispense at least one serving after dispensing apparatus placed in activated state (C5 L 66-C6 L 21)

(Re: cl 27) (25) disabling activated apparatus and returning activated dispensing apparatus to readied state when at least one serving is dispensing into container in accordance with dispensing information (c5L 22-48)

(Re: cl 28) dispensing apparatus comprises a multi-dispensing apparatus (c5L 22-48).

8. Claims 1-8, 12, and 16-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Mogadam et al. 6036055 which discloses all the claimed elements including:

(Re: cl 1) Method for controlling the dispensing of at least one serving entering user identification information (c10 L 36-52)

storing dispensing information in storage medium payment (c6 L 56-65)

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linking dispensing information and destination information (c6 L 36-55)  
activating readied dispensing apparatus premised upon dispensing information (c6 L 36-55)  
(Re: cl 2,24) putting dispenser in standby state (c 6 L 65-67)  
(Re: cl 3) dispensing information comprises quantity of serving to be dispensed (c6 L 1-18)  
(Re: cl 4) number of servings to be dispensed (c6 L 1-18)  
(Re: cl 5) dispensing information comprises the location to be delivered (c10 L 36-52 )  
(Re: cl 6) dispensing information comprises an input of an amount of payment (c6 L 56-65)  
(Re: cl 7) dispensing information comprises dispensing apparatus which will dispense the serving (c10 L 36-52)  
(Re: cl 8) dispensing apparatus dispenses at least one serving into a container (c6 L 20-36)  
(Re: cl 12) identification information is a part of container (c9 L 22-40)  
(Re: cl 16) dispensing information is part of container (c10 L 16-35)  
(Re: cl 17) making entry into warehouse database of identification of at least one serving dispensed (c6 L 20-35 with c6 L 45-65)  
(Re: cl 18) making entry into warehouse database of dispensing information of at least one serving dispensed (c6 L 20-35 with c6 L 45-65)  
(Re: cl 19 ) making entry into warehouse database of destination information of at least one serving dispensed (c6 L 20-35 with c6 L 45-65)  
(Re: cl 20) comparing any two entries recorded in warehouse database  
(Re: cl 21) entering destination information about at least one serving destination information being linked to user (c10 L 36-52)  
(Re: cl 22) (21) destination information consists of an amount of payment (c10 L 36-52)  
(Re: cl 23) repeating a and b  
entering second dispensing information about at least one serving, second dispensing serving information including information about a refill serving;  
storing second dispensing information in a storage medium;  
linking second dispensing information with destination information;  
activating readied dispensing information with destination information;  
activating readied dispensing information with destination information;  
activating readied dispensing apparatus based on second dispensing information to put dispensing apparatus in activated state;  
dispensing at least one serving from activated dispensing apparatus based on second dispensing information (c6 L 36-55)  
(Re: cl 25) pressing an activation device to dispense at least one serving after dispensing apparatus placed in activated state (c6 L 1-18)  
(Re: cl 26) (25) timing out the dispensing by disabling activated dispensing apparatus and returning activated dispensing apparatus to readied state when button is not pressed within allocated time period (c6 L 1-18)

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(Re: cl 27) (25) disabling activated apparatus and returning activated dispensing apparatus to readied state when at least one serving is dispensing into container in accordance with dispensing information (c6 L 1-18)

(Re: cl 28) dispensing apparatus comprises a multi-dispensing apparatus (c10 L 36-52).

9. Claims 1, 3-4, 9, 11, 13, 15, 17-19, 23, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by McDonald et al. 5564803 which discloses all the claimed elements including:

(Re: cl 1) Method for controlling the dispensing of at least one serving entering user identification information (c2 L 45-65)

storing dispensing information in storage medium (c2 L 45-65)

linking dispensing information and destination information (c2 L 45-65)

activating readied dispensing apparatus premised upon dispensing information (c2 L 45-65)

(Re: cl 3) dispensing information comprises quantity of serving to be dispensed (c2 L 45-65)

(Re: cl 4) number of servings to be dispensed (c2 L 45-65)

(Re: cl 9) identification information comprises bar code (c3 L 1-8)

(Re: cl 11) identification information comprises a password (c2 L 45-65)

(Re: cl 13) dispensing information comprises a bar code (c3 L 1-8)

(Re: cl 15) dispensing information comprises a password (c2 L 45-65)

(Re: cl 17) making entry into warehouse database of identification of at least one serving dispensed (c3 L 52-c4 L 9)

(Re: cl 18) making entry into warehouse database of dispensing information of at least one serving dispensed (c3 L 52-c4 L 9)

(Re: cl 19) making entry into warehouse database of destination information of at least one serving dispensed (c3 L 52-c4 L 9)

(Re: cl 23) repeating a and b

entering second dispensing information about at least one serving, second

dispensing serving information including information about a refill serving,

storing second dispensing information in a storage medium, linking second

dispensing information with destination information, activating readied dispensing

information with destination information, activating readied dispensing

information with destination information, activating readied dispensing apparatus

based on second dispensing information to put dispensing apparatus in activated

state, dispensing at least one serving from activated dispensing apparatus based on second dispensing information (c2 L 45-65)

(Re: cl 28) dispensing apparatus comprises a multi-dispensing apparatus (c3 L 32-51).

*Claim Rejections - 35 USC § 103*

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim(s) 1-8, 11-12, and 15-28 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogadam et al. which discloses the elements previously discussed and further suggests:

(Re: cl 11) identification information comprises a password (c6 L 45-55, implied or obvious to use a password with signin)

(Re: cl 15) dispensing information comprises a password (c6 L 45-55, implied or obvious to use a password with signin).

A signin implies the likelihood of a password and at least makes obvious the use of a password in identifying the user to assure the proper user is being tracked.

12. Claim(s) 1-8, 10, 13-14, 16-23, 25, and 27-28 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank et al. which discloses the elements previously discussed and further suggests:

(Re: cl 4) number of servings to be dispensed (C4 L 66-C5 L 21).

(Re: cl 6) dispensing information comprises an input of an amount of payment (C3 L 43-57).



Controlling the volume of servings suggests control of the number of servings as both are quantifying selections available to the user and substituting quantity of servings with volume of alcohol are well within the skill of the programmers in the art. Using quantity volume authorized with the card purchased certainly implies a dollar amount given a price of the beverage purchased as quantity and price are quantifying selections available to the user and substituting volume of servings with its correlative payment is well within the skill of the programmers in the art.

13. Claim(s) 1-9, 11-13, and 15-28 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Mogadam et al. in view of Peckels 5255819 wherein the former discloses the elements previously discussed and the latter discloses any elements not inherently taught by the former including:

(Re: cl 9) identification information comprises bar code (c7 L 12-58).

It would have been obvious for Mogadam et al. to identify the dispenser with bar codes because a scanner can reduce the incidence of entry error as taught by Peckels come up with the instant invention.

14. Claim(s) 1-8, 10, 13-14, 16-23, 25-28 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank et al. in view of Peckels 5255819 wherein the former discloses the elements previously discussed and the latter discloses any elements not inherently taught by the former including:

(Re: cl 26) timing out the dispensing by disabling activated dispensing apparatus and returning activated dispensing apparatus to ready state when button is not pressed within allocated time period (c8 L 40-64).

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It would have been obvious for Frank et al. to timeout limit the dispensing enable time to prevent overdispensing and prevent inadvertent dispensing of beverages declined as taught by Peckels come up with the instant invention.

***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on (571) 272-6944.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Michael E. Butler*

Michael E. Butler  
Examiner

*Donald P. Walsh*  
DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3607